UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,278	06/27/2003	Erik W. Selberg	RN074 (2635-012-03)	8513

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EXAMINER
TRUONG, THANHNGA B

ART UNIT	PAPER NUMBER
2438	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Advisory Action *Before the Filing of an Appeal Brief*	10/608,278	SELBERG ET AL.
	Examiner	Art Unit	
	THANHNGA B. TRUONG	2438	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>30 October 2009</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

      Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

      NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: *None*.

   Claim(s) objected to: *None*.

   Claim(s) rejected: *68-92*.

   Claim(s) withdrawn from consideration: *None*.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

                               /Thanhnga B. Truong/
                               Primary Examiner, Art Unit 2438

Continuation of 11. does NOT place the application in condition for allowance because:

The applicant has argued that the combination of teaching between Spagna and Wyman fails to teach or suggest "providing an option to modify at least one user attribute to qualify for a license.
Examiner respectfully disagrees with the applicant and still maintains that Spagna and Wyman combined teaches the above limitation. In fact, Wyman, , teaches the management interface can modify certain limited attributes. None of these attributes can be modified in such a way that they reduce constraints established by corresponding attributes in the license data objects. The more important attributes which can be modified by the management interface 33 using this mechanism are:

(71)   (a) assignment: an assignment of some or all of the units granted on the associated product use authorization;

(72)   (b) reservation: a reservation of some or al of the units granted on the associated product use authorization;

……………

……………

Thus, there are certain attributes that can be changed by a license administrator using the management interface at the server 10, but none of these can result in obtaining more extensive rights to use than granted by the product use authorization. In each case, the license administrator can limit the rights which will be allocated to users in some way that may be appropriate for the administrator for control purposes (column 29, lines 11-68 of Wyman).

Furthermore, Wyman teaches the product use authorization is structured to define a license management policy allowing a variety of license alternatives by components called "style", "context", "duration" and "usage requirements determination method". The style may be allocative or consumptive. An allocative style means the units of the license may be allocated temporarily to a user when a request is received, then returned to the pool when the user is finished, so the units may be reused when another user makes a request. A consumptive style
means the units are deducted from an available pool when a user node makes a valid request, and "consumed", not to be returned for reuse. The context value defines the context in which the use is to be allowed, such as on a particular network, by a particular type of CPU, by a particular user name, by a particular process, etc. The duration value (used in conjunction with the style component) concerns the time when the license units are to be deducted from the available pool of units, whether at the time of request, after a use is completed, etc. A usage requirements determination method may be specified to define or provide information concerning the number of license units charged in response to a license request from a user node; for example, some CPU platforms may be charged a larger number of license units than others. A table may be maintained of usage requirements, and the determination method may specify how to access the table, for example. The important point is that the user node thus the software product) can only make a request, identifying itself by user, platform, process, etc., and the license management facility calculates whether or not the license can be granted (that is, units are available for allocation), without the user node having access to any of the license data or calculation. There is a central facility, the license server, storing the license documents, and, upon request, telling the licensed products whether they can operate under the license terms (column 7, lines 2-40 of Wyman, wherein the product use authorization is structured to define a license management policy allowing a variety of license alternatives by components called "style", "context", "duration" and "usage requirements determination method" are the options that can be modified to match the user's request by allocating temporarily to a user when a request is received to allow the usage of the licence).

Applicant further has argued that Spagna and Wyman, neither alone or in combination, also fails to teach "licenses being defined from a configurable rule that is based at least in part on at least one user attributes.

Examiner respectfully disagrees with the applicant and still maintains that Spagna, alone, teaches the above limitation "configurable rule that is based at least in part on at least one user attributes in column 12, lines 52-67 of Spagna. However, as applicant argued that "licences being defined from a configurable rule that is based at least in part on at least one user attributes", the part "licences being define" was never introduced in the claimed language of claim 68. Let's us look at this paticular limitation that was cited from claim 68 for "storing with the first computing device (column 6, lines 35-39 of Spagna) a plurality of licenses for authorizing use of the content (column 4, lines 27-32; column 10, lines 28-33 of Spagna) from a configurable rules that is based at least in part on at least one user attributes (column 12, lines 52-67 of Spagna). This limitation does not mention anything about licenses being defined from a configurable rule that is based at least in part on at least one user attributes. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., licenses being defined from a configurable rule that is based at least in part on at least one user attributes) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant further has argued that Spagna and Wyman, neither alone or in combination, also fails to teach "use's age", "user's residence", and/or "payment method" in claim 69, 70 and 71.

Examiner respectfully disagrees with the applicant and still maintains that Spagna obvious teaches these attributes in column 11, lines 8-17 wherein the user's age, user's residence, and/or payment method can be part of the any and/or additional other pertinent information. In fact payment method also cited in column 4, lines 22-26 of Spagna, where the payment can be paid direct to an account, which is refering to as online payment method.

Applicant further has argued that Spagna and Wyman, neither alone or in combination, also fails to teach "a requestd use of media includes copying to any such storage mediums" in claim 78-80.

Examiner respectfully disagrees with the applicant and still maintains that Spagna, alone, teaches the above limitation. In fact, Spagna teaches the Work Flow Manager 154 as a complete system or as any of it's constitute processes may be distributed as an application program in a computer readable medium including but not limited to electronic distribution such as the web or on floppy diskettes, CD ROMS and removable hard disk drives (column 53, lines 11-16 of Spagna, wherein the computer readable medium of Spagna, such as floppy diskettes, CD ROMS and removable hard disk drives are served as storage to store or copy application programs, contents, file data, etc...)

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, based on the above explanation, examiner believes that the combination of teaching between Spagna and Wyman teaches the claimed subject matter of claim 68 and all dependent claims. Thus the combination of teaching between Spagna and Wyman is efficient and proper.

For the above reasons, it is believed that the rejections should be sustained.
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